

**IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:11 CV 78**

**NATIONAL ALLIANCE FOR** )  
**ACCESSIBILITY, INC., a Florida Non-** )  
**Profit Corporation, and DENISE PAYNE,** )  
**Individually,** )  
 )  
**Plaintiffs** )  
 )  
**v** )  
 )  
**SOUTH ASHEVILLE HOTEL** )  
**ASSOCIATES, LLC, a North Carolina** )  
**Limited Liability Company,** )  
 )  
**Defendant.** )

**ORDER**

**THIS MATTER** is before the court upon the court's review of the file in this matter and a document filed by counsel for plaintiffs entitled "Stipulation for Dismissal with Prejudice" (#27). On November 11, 2011 counsel for plaintiffs filed a document entitled "Plaintiffs' Notice of Settlement" (#26). In that document, plaintiffs' counsel advised the court that the parties had reached a settlement of the case and were in the process of executing the settlement documents. On that same date, plaintiffs' counsel filed the "Stipulation for Dismissal with Prejudice" (#27). This document was signed only by counsel for plaintiffs. Rule 41(a)(1)(A)(ii) states:

**Rule 41. Dismissal of Actions**

- (a) Voluntary Dismissal.
  - (1) By the Plaintiff.
    - (A) Without a Court Order. Subject to Rules 23(e), 23.1(c), 23.2, and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

- (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or
- (ii) a stipulation of dismissal signed by all parties who have appeared.

The Rule requires that a stipulation of dismissal be signed by all parties who have appeared. The document (#27) filed by counsel for plaintiffs does not comply with the Rule and will be ordered to be stricken and will be struck from the file in this matter. The plaintiffs and defendant will be ordered to file a stipulation of dismissal in full compliance with Rule 41 of the Federal Rules of Civil Procedure on or before December 2, 2011.

### **ORDER**

**IT IS, THEREFORE, ORDERED** that the Stipulation for Dismissal with Prejudice (#27) is hereby **STRICKEN** from the docket in this matter and the plaintiffs and defendant are **ORDERED** to file a Stipulation of Dismissal signed by all parties who have appeared in full compliance with Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure on or before **December 2, 2011**.

Signed: November 18, 2011



Dennis L. Howell  
United States Magistrate Judge

